

Digital finance: Markets in Crypto-assets (MiCA)

2020/0265(COD) - 17/03/2022 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs adopted the report by Stefan BERGER (EPP, DE) on the proposal for a regulation of the European Parliament and of the Council on markets in crypto-assets and amending Directive (EU) 2019/1937.

This proposal is part of a package of legislative proposals to strengthen the EU's anti-money laundering and countering terrorism financing rules. It aims to update the existing rules on information accompanying money transfers. The update aims to extend the scope of the rules to certain crypto-assets, which are increasingly at risk of being exploited for criminal and money laundering purposes.

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

Objective of the Regulation

The Regulation would establish uniform rules on:

- **transparency and disclosure requirements** for the issuance, offering and admission to trading of crypto-assets on a crypto-asset trading platform;
- the authorisation and supervision of crypto-asset service providers and issuers and offerors of both asset-referenced tokens and issuers of electronic money tokens;
- the **operation, organisation and governance** of issuers and offerors of asset-referenced tokens, issuers and offerors of electronic money tokens and crypto-asset service providers;
- consumer protection rules for the issuance, trading, exchange and custody of crypto-assets;
- measures to prevent **market abuse** to ensure the integrity of crypto-asset markets.
- measures to prevent the **misuse of crypto-assets for illicit purposes** and to protect the internal market from the risks relating to money laundering, terrorist financing and other criminal activities.

This Regulation applies to persons that are engaged in the issuance or offering of crypto-assets for the purpose of trading or providing services related to the trading of crypto-assets in the Union.

By 1 January 2025, the Commission should include **crypto-asset mining** in the economic activities that contribute substantially to climate change mitigation in the EU Sustainable Finance Taxonomy.

Crypto-Assets, other than asset-referenced tokens or e-money tokens

No person should offer crypto-assets, other than asset-referenced tokens or e-money tokens, in the Union to the public, or seek an admission of such crypto-assets to trading on a trading platform for crypto-assets, unless that person:

- is a **legal entity established in the Union**, a natural person having its residence in the Union, or an entity established or having a seat in the Union and subject to the rights and obligations of the Union, or is a decentralised autonomous organisation;

- has drafted a crypto-asset white paper in respect of those crypto-assets;
- has received **authorisation** from a competent authority;
- has measures in place to prevent the misuse of the offering of crypto-assets to the public or trading on a platform for crypto-assets for the purposes of **money laundering or financing of terrorism**;
- does not have a parent undertaking, or a subsidiary, that is established in a third country that: (i) is listed as a high-risk third country having strategic deficiencies in its regime on anti-money laundering and counter terrorist financing; (ii) has a 0 % corporate tax rate or no taxes on companies' profits.

Obligations for all crypto asset service providers

New provisions stipulate that crypto asset service providers should:

- act in an honest, fair and professional manner, in the best interests of their clients and potential clients;
- make publicly available, in a prominent place on their website, information related to the **environmental and climate-related impact** of each crypto-asset in relation to which they offer services;
- have effective internal control mechanisms and procedures to ensure **full traceability of all transfers of crypto-assets** for payment purposes within the EU, as well as transfers of crypto-assets from the EU to other regions or from other regions to the EU;
- have effective internal controls and procedures for the prevention, detection and investigation of money laundering, terrorist financing and other criminal activities in accordance with the [Money Laundering Regulation];
- apply adequate customer **due diligence procedures** by identifying and verifying client identity on the basis of documents, data or information obtained from a reliable and independent source and by identifying the identity of the beneficial owner and taking reasonable measures to verify that person's identity. Internal control mechanisms and procedures should provide for enhanced due diligence measures for customers that wish to transfer crypto-assets to or from unhosted wallets;
- **report immediately to the competent authorities** any reasonable suspicion that funds, regardless of the amount involved, are the proceeds of criminal activity or are related to the financing of terrorism or other criminal activity, and provide all necessary information directly to the competent authority upon request;
- investigate all **complaints** fairly and within three working days of receiving a complaint.

Crypto-asset service providers carrying out specified services should have in place a plan that is appropriate to support an **orderly wind-down of their activities** under applicable national law, including the continuity or recovery of any critical activities performed by those service providers or by any third party entities.

Role of the European Securities and Markets Authority (ESMA)

ESMA should establish and maintain a public register of '**non-compliant crypto-asset service providers**' and regularly update this register

ESMA should be conferred **sufficient powers** to supervise the issuance of crypto-assets, including asset-referenced tokens, as well as crypto-asset service providers, including the power to suspend or prohibit an

issuance of crypto-assets or the provision of a crypto-asset service and to investigate infringements of the rules on market abuse. It should monitor and report annually on the scale and severity of any circumvention of this Regulation by third-country actors, as well as propose possible countermeasures.